

# VULNERABILITY AND DISCRIMINATION IN THE EMPLOYMENT OF BENEFICIARIES OF INTERNATIONAL PROTECTION IN HUNGARY

SOCIAL INTEGRATION OF BENEFICIARIES  
OF INTERNATIONAL PROTECTION IN HUNGARY  
– NIEM POLICY BRIEFS

ANITA ROZÁLIA NAGY-NÁDASDI

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# DISCRIMINATION

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## Executive summary

Employment is a driving force for integration for refugees. The legislative background protecting the Hungarian labour market is unfavourable for the refugees at several levels, despite the fact that the legal norm is not discriminatory in international terms. The combined effect of unequal treatment experienced in the course of job-seeking and hiring and legislative restrictions provide a basis for discrimination, but these controversial situations are not escalated to the dispute settlement instances managed by the authorities or the courts. Behind the high number of latent cases underlie the endeavours of refugees to integrate on the one hand, and their insufficient knowledge about the functioning of the institutions of legal protection, on the other hand. State-run and non-governmental organisations – operating with the involvement of refugees and migrants – play a key role in transmitting knowledge about integration, by providing several services and support at the same place and by managing the bilateral process of integration in a complex way.

This policy brief presents the development of the employment situation from 2007 by following the analysis of the implementation of the asylum, anti-discrimination and employment rules through individual interviews conducted on the basis of the employment indicators of the [National Integration Evaluation Mechanism](#) (hereinafter referred to as NIEM) project.

## 1. Introduction

Employment is in the focus of integration as a driving force for refugees and has been given a key role among the fields covered by NIEM. In an everyday sense, willingness to work and taking up work is one of the decisive manifestations of the refugees' intention to integrate from the perspective of the host society as well. The more they adapt to the general Hungarian norms in working, the more they will be accepted by their environment: this is the expected and the efficient strategy according to the interviewed refugees. In contrast with European regulation, Hungarian legislation does not take into account in the employment of refugees and asylum seekers whether they already have had work previously, i.e. it has no impact on their asylum status that their integration into the community is on course. It is also characteristic of the Hungarian legislative provisions that they provide the legal minimum level only in terms of regulating employment, asylum and anti-discrimination, even though there would be opportunity and demand, on the part of those concerned, for a more favourable judgement adjusted to the individual's situation.

## Methodology

The main points of this research analyse the interrelations between employment and equal treatment, the right of asylum and the right to work in relation to the UN Geneva Convention relating to the Status of Refugees and the Fundamental Law of Hungary.

The main questions: is the State obliged to ensure employment for refugees as part of the right to integration? Under what framework the principle of anti-discrimination can be applied for refugees in the field of employment? Despite a relatively easier position to find work due to the general shortage of labour, refugees tend to be employed mainly in the lower segment of the labour market. To what extent does the manifestation of different or even unequal treatment depend on the nature of the work and to what extent on the origin of the concerned persons?

Is the legislative framework considered discriminative? The NIEM employment indicators constitute the starting point of the questions of the research: access to becoming an entrepreneur, right to have qualifications recognised, right to have skills and abilities assessed, support for having diplomas, degrees and certificates recognised.

The doctrinal analysis has been pursued at several interrelated levels: asylum law, labour law and anti-discrimination regulation have been analysed separately but also in terms of their inter-linkages. Conclusions on the potential appearance of direct or indirect racial, nationality- or gender-based, or even multiple discrimination prohibited by international law or the fundamental rights ensured under national law and for describing the enforcement of equal opportunities can mainly be arrived at by analysing the interviews with the experts and the concerned persons. Such cases of discrimination are indicated by the academic background and by the results of research at international level.

The research takes into account legislative texts effective as of 30th September 2020. It is important to note that no legislative acts on the support of integration have been adopted after 2016, and even certain forms of support have been terminated. Interviews have been conducted during the research project with a female refugee who herself worked in Hungary as a social expert, with the collaboration of an organisation engaged in supporting the integration of immigrants and with the president of an organisation that provides immigrants with assistance, and is also run by immigrants. The experiences of the author (with legal qualifications) who previously worked in public administration positions and gave an interview on the individual programmes go back up to 2006.

## 2. Tripartite legislative acts

### General introduction

By providing an overview of the relevant Hungarian legislative acts, the research seeks an answer to the question of whether legislation-level regulation on employment is discriminative. Since if a social group is treated less favourably than a similar social group despite the fact that formally correct rules have been applied, it qualifies as discrimination.

### 2.1. Asylum regulations

#### 2.1.1. Overview

Hungary follows the principle of constitutive asylum law, that is, those persons are considered refugees whom the determining authority determine to be refugees. As long as the application procedure has not been closed and a third-country national has not been granted the much more favourable refugee status, the employment centres cannot issue a work permit for the asylum seeker without having examined the labour market and they can apply only for jobs not filled by Hungarian citizens. The deadline of asylum procedures was determined in 60 days until the migration crisis, when the authority was able to extend that deadline by 30 days, i.e. it did not practically prevent the newly-arrived refugees from taking up jobs on the free labour market. An auxiliary rule made engagement in work in the territory of the reception centres possible but only a few asylum seekers succeeded in doing so, given that the basic purpose and task of such centres were providing accommodation and starting the integration process.

After December 2016, asylum seekers were accommodated in transit zones, where their opportunities to take up work ceased, mainly due to the unclear legal status of the transit zones. The information leaflet issued by the determining authority does not include any reference to work opportunities, either in Hungarian or in English. The number of those applying for asylum for the first time has drastically declined to a small portion as compared to numbers prevailing before 2015<sup>1</sup>. With the close-down of the transit zones in the spring of 2020, the number of refugees with settled status also dropped drastically, the narrowing employment opportunities must have contributed, in addition to increasing xenophobia, to that most members of the Somali community has moved to the United Kingdom – as reported by the interviews.

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<sup>1</sup> <https://ec.europa.eu/eurostat/databrowser/bookmark/9f6d4733-7dd7-45f2-b78a-8c1f398a1282?lang=en>

### 2.1.2. Normative rules

Even though the first Chapter of the Geneva Convention includes the rules of procedure for obtaining refugee status, as far as proportions are concerned, it there is more focus is on how to start a new life for refugees: the contents of asylum are regulated by Part II and the following parts to which less reference is made. The entire Chapter III is about Gainful Employment, Article 17 on Wage-earning Employment, Article 18 on Self-employment, while Article 19 on Liberal Professions. With regard to welfare, Chapter IV regulates the issues of labour safety and benefits in Article 24 on labour legislation and social security. The Geneva Convention was heavily criticised with respect to the 2015 migration crisis but the New York Declaration adopted by the United Nations General Assembly in 2018 on a Global Compact on refugees did not create a new normative regulatory framework but it addresses factors hampering the refugees' employment as part of long-term solutions and strives to eliminate elements that prevent the implementation of the regulation.

The interpretation of Articles 17, 18, 19 and 24 of the Geneva Convention and their transposition into Hungarian law by Law Decree No. 15 of 1989 constitute the normative framework, under which national and EU regulations operate. In principle, these regulations are in harmony with the *acquis communautaire* and with the rules set out by the Common European Asylum System on employment. That is, with the fulfilment of the harmonisation of law obligation, the Hungarian legislative regulations also comply with the provisions of the Geneva Convention.

Pursuant to Article 26 of the Asylum Qualification Directive, "Member States shall authorise beneficiaries of international protection to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service, immediately after protection has been granted." Having regard to the fact that the legal form (directive) of the legislative act provides an opportunity for derogations in the course of determining the national regulations, the restriction on the employment of refugees and beneficiaries of subsidiary protection set out in the currently effective Act LXXX of 2007 on Asylum (hereinafter referred to as: Met.) are allowed and are in conformity with EU law. On the basis of European and international law, the answer to the first interrogatory question of the research could be that Hungary must ensure the conditions for the employment of refugees but its method raises another question: whether Hungary should encourage it by positive incentives, thereby ensuring equal treatment for them? The rules on ensuring the possibility of becoming entrepreneurs for the refugees and on recognising their qualifications, skills and abilities are positive incentive elements in the legal system, provided that they actually operate in a way accessible to those concerned.

Article 5 (1) of the Met. effective prior to 2015 and also the currently effective version of the Act include the provision that a person seeking recognition shall be entitled to “work within the reception centre or at a workplace determined by the public employer within nine months of the submission of the application for recognition and according to the general rules applicable to foreigners thereafter;” – and this provision is reiterated in Article 21 (3) of the implementing decree of Met. (Metvhr.).

Refugees and beneficiaries of subsidiary protection are entitled, as a general rule, to the same rights and obligations which are granted to Hungarian nationals, except for some exceptions. Such an exception is in the field of employment that under Article 10 (2) b) of Met. a refugee “may not fulfil a job or responsibility and may not hold an office, the fulfilment or holding of which is tied by law to Hungarian nationality.” Due to lack of data gained in practice or the absence of official statistical data, it is hard to assess how much hindrance this restriction has meant in practice.<sup>2</sup> It is a specific feature of the Hungarian employment structure that the total number of those working in public administration, education and health care amounts to 800-860 thousand people,<sup>3</sup> éfrom among the more than 4 million employees, and Hungarian nationality is a pre-condition to employment in these fields. The fact itself that refugees cannot work for public institutions implies several problems. Several programmes were launched and financed from the Asylum, Migration and Integration Fund (AMIF) and from previous EU funds and with state support that were aimed at the vocational training of adult refugees in the period 2006 to 2016. Even though the success of such programmes lags only slightly behind those implemented in Western Europe, or is nearly identical with them, several permanent problems have emerged during job seeking. There were many participants that provided assistance in the integration processes at the state-run reception centres operating with public employees or during the programmes, acting as quasi inter-cultural intermediaries, but the provisions of Article 10 (2) of Met. prevented their later employment. The experience of having a kind of first, protected work performed jointly with the members of the host society is missing in Hungary, which exists in several European countries, such as in Portugal, for refugees, and in a broader sense, for those having skills less sought for in the labour market but who fulfil social and supportive tasks. Illustrating it with a practical example: a single ‘sur place’ refugee mother followed a vocational training course on a profession traditionally pursued by men. At the end of

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<sup>2</sup> Based on the Zaragoza indicators, in 11 Member States the employment rate was higher among people born abroad than among national citizens in the work-age population, but there are [no such data](#) available from Hungary.

<sup>3</sup> [At the beginning of 2014, 863,6 thousand people worked for public institutions together with those employed in public works and this number dropped to 817,2 thousand people by December 2018.](#)

the programme, employment was proposed for her as inter-cultural intermediary at the determining authority, but her employment failed to be confirmed due to the provisions of Article 10 (2) of Met. Some years later she was hired by UNHCR as an employee fulfilling intermediary activities around and within the transit zones upon recommendation by a lawyer who previously worked in public administration.

The loss of human capacity due to Article 10 (2) of Met. was counteracted by the circumstance that the social-supportive NGOs gave work for the refugees as employees. A practical disadvantage in this respect is the uncertain nature of project-based financing, which had a fundamental impact on the duration of the employment. The establishment of a central umbrella organisation similar to the Portuguese one-stop-shop administration scheme,<sup>4</sup> which ensures jobs by employing refugees and asylum seekers under close cooperation between the authorities and the NGOs, would be more efficient than the nationality-based rejection system implemented in Hungary. Integrating the skills, abilities, qualifications and earlier experiences of the refugees in the social-administration sector could at the same time signify the implementation of equal treatment by using positive employment incentives that work in practice, in addition to the employment integration of the refugees themselves. Equal opportunities could thereby be ensured and their sectoral-level advantages could be recognised in the social welfare sector, besides less favourable employment opportunities. Under the Hungarian scheme, however, refugees without nationality status may not engage in work for the largest social-administration employer, the State, due to the statutory prohibition, and this hampers the implementation of equal opportunities for them.

## 2.2. Labour law regulations

### 2.2.1. Overview

Apart from the restriction set out in the Met., neither the Labour Code (Mt.) nor the legal acts on vocational training and training include provisions with negative content with regard to refugees and beneficiaries of subsidiary protection. On the basis of Act IV of 1991 on Job Assistance and Unemployment Benefits (hereinafter: Ft.) the National Employment Service provided in 2010 a budget of almost HUF 30 million from state budgetary funds for two cities for launching targeted vocational training programmes for job-seeking refugees, according to the statement of a lawyer who previously worked in public administration. No further similar programme followed, the NGOs used EU sup-

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4 Barcza, Ildikó – Nádassdi, Anita: One-Stop-Shop, Egyablakos ügyintézési rendszer Portugáliában. In Bodolai, Borbála Anna – Kovács, András (szerk.): [A nyelvtanulástól a politikai részvételig - Bevándorlók integrációját támogató programok az Európai Unióban](#). Budapest, Nemzetközi Összehasonlító Kutatásokat Támogató Alapítvány (ICCR-Budapest), 2013, 85–106.

port funds for providing assistance in training and finding a job on the labour market. Both the labour programmes financed from more flexible EU funds and those better complying with the requirements of national legal acts have revealed the deficiencies in the recognition scheme of previous qualifications, skills and abilities.

The number of refugees and beneficiaries of subsidiary protection involved in programmes providing assistance for employment financed in 2006 to 2016 by the AMIF and its predecessors, the European Integration Fund and the European Refugee Fund fluctuated between 20-40 persons per year. In the opinion of the lawyer who worked earlier in public administration, 50 to 60 % of those who participated in the programme found a job in an area within the period half-a-year to 5 years following the programme. The outcome of these programmes can be analysed from several aspects, but it is worth laying the emphasis on the change in the individual life situation of the concerned people instead of analysing the figures. A refugee woman who herself later worked as social expert in Hungary, said the following: *“After having completed the Dajka (Nanny) programme, I filled out the Digital Life Career Map. I received it via e-mail and it did me good both emotionally and mentally. I understood then, that I am good and capable of doing a lot of things and then I started the nurse training, which is recognised in the National Qualifications Registry. Such surveys are very important for people like me who did not receive much training and education in their home country.”*<sup>5</sup>

### **2.2.2. Normative regulatory framework**

Pursuant to Article XVII (1) of the Fundamental Law of Hungary “Employees and employers shall cooperate with each other with a view to ensuring jobs and the sustainability of the national economy, and to other community goals”, paragraph (3) provides “Every employee shall have the right to working conditions which ensure respect for his or her health, safety and dignity” and according to paragraph (4) “Every employee shall have the right to daily and weekly rest periods and to a period of annual paid leave”.

Article 15 (3) of the Charter of Fundamental Rights of the European Union sets out the provision in relation to the freedom to choose an occupation and the right to engage in work that “Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.” Based on the word-by-word interpretation of this provision, ensuring the same working conditions is an obligation prescribed under the fundamental rights granted by the EU.

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<sup>5</sup> The Dajka (Nanny) programme was a vocational training programme managed by the Refugee Mission of the Hungarian Reformed Church between 2008 and 2010, [further information](#). The Digital Life Career Map is a programme for assessing skills and abilities, [further information](#)

However, it is a mass phenomenon, in contrast with that provision, what the president of a supportive organisation consisting of immigrants has put as “you work in the kebab shop seven days a week”, which could mean that the daily rest period and the employment contract are less favourable than those applied for national citizens and illegal employment is much more frequent in the case of refugees and immigrants.

The Labour Code (Mt.) and Ft. do not include either positive or negative provisions for refugees as employees. This requirement could be fulfilled by a bigger cut in the employers' contributions or by introducing a social tax similar to that applied for the obligation to employ people with reduced capacity to work and it would not be contrary either to the provisions of the Geneva Convention or those of the *acquis communautaire*. A deeper analysis of Indicators no. 12 and 13 has revealed that even though there are and there have been training courses aimed at strengthening entrepreneurial and employee skills, the refugees did not receive loans granted by the State or supports assisting the unemployed in becoming entrepreneurs. In the opinion of the president of an organisation consisting of immigrants and providing assistance for them, many of them have turned to be forced entrepreneurs because they could not attend training courses and learn the language well enough so that they can re-train themselves for work of higher standards.

The regulation on the recognition of qualifications and skills is mostly connected to labour law regulations. The provisions of Act C of 2001 make the recognition of qualifications for refugees without official papers possible but there is no centre in place that would assess such qualifications. The current regulations assign the task of recognising skills, abilities and qualifications to the scope of responsibilities of schools, institutions providing vocational education and to that of employers. This decentralised model can be evaluated in several ways. It provides opportunities, on the one hand, for launching tailor made integration processes in smaller communities, in compliance with the Action Plan on the integration of non-EU country nationals of the European Commission.<sup>6</sup> On the other hand, a centre for the assessment of skills could issue an official certificate on skills and qualifications for refugees who take up work mainly by relying on their personal social network and who are exposed to negative processes on the labour market, which is unconditional on employment or training pre-requisites and is accessible for anyone at any time. The holder of such a certificate could take part in the relation system of the host society and could also support his/her own integration process.

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<sup>6</sup> [www.eur-lex.europa.eu/legal-content/HU/TXT/HTML/?uri=CELEX:52020DC0758&from=EN](http://www.eur-lex.europa.eu/legal-content/HU/TXT/HTML/?uri=CELEX:52020DC0758&from=EN)

## 2.3. Equal treatment

### 2.3.1. Overview

Pursuant to Article 5 d) of Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (hereinafter: Ebktv.) on employment-based discrimination, employers are obliged to observe the principle of equal treatment “in respect of employment relationships, and persons entitled to give instructions in respect of other relationships aimed at work and relationships directly related thereto.” Multiple discrimination is a term describing the situation of especially vulnerable groups that have two or more protected characteristics that distinguish them from the majority society. Refugee women seeking employment constitute such a category. During their activities, the national anti-discrimination organisations have not discovered employment-based discrimination affecting refugees. Such cases can be found among those made public and on the basis of the interviews conducted, which confirm the latency in a similar manner to employment-based discrimination. The Equal Treatment Authority has been operating as part of the Office of the Commissioner for Fundamental Rights since January 2021, which might be favourable from the aspect of matters of discrimination, because the commissioner has been granted a more complex scope of powers for investigation.

There is no data available on refugees turning to the Authority in relation to employment, but the primary reason for it can be found in the willingness and attitude of refugees to follow the norms and to integrate/assimilate. One of the interviewees said that back at the time she was not yet able to speak Hungarian well, she had had no work for 7 months. She appeared at 2-3 job interviews a day and there were cases that she was “looked at strangely” and she was promised to be called back but they never did so. She thinks that it was so “because of the headscarf”. Due to the lack of cases involving refugees, it can only be presumed that their situation is similar to those experienced in matters of discrimination based on the origin of the concerned person. In the case of Roma people with Hungarian nationality, the Equal Treatment Authority was able to reveal the infringement of the principle of equal treatment on the employers’ side in the course of investigations concerning applications for jobs subject to testing or a trial period.

### 2.3.2. Normative content

The Anti-discrimination Framework Directive of the European Union lays down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation. Unfortunately, negotiations on regulating other fields beyond employment have been disrupted. The origin, colour, or refugee status that can be taken into account in the case of refugees do not emerge as group-

forming factors. However, vulnerable refugees in need of special treatment can be adjusted to the ever-widening notion of disability: the absence of reasonable accommodation in their case is considered discrimination.<sup>7</sup> Article 7 of the Ebktv. lists the forms of violation of the principle of equal treatment. The regulation has been referring to direct and indirect negative discrimination in an unchanged form since 2005, despite the fact that several new elements have emerged in discrimination law since then, such as multiple discrimination or reasonable accommodation. Despite the absence of written regulation, the new elements are applied in the practice of the Equal Treatment Authority.

### 3. Indicators and the experiences of experts and the concerned persons

In the second part of my research, supplementing the analysis of the legislative acts, I have interviewed experts on the basis of the relevant NIEM indicators. A portion of their answers was more intricately linked to the legal acts, while another portion can be understood more easily after the presentation of the individual indicators. Their experiences and impressions on the enforcement of the legislative acts necessarily provide a subjective picture, but they highlight some general characteristics as well.

Indicator no. 5 analyses the access to employment, and within that the regulation concerning the group of beneficiaries of international protection in need of special treatment. With regard to Indicator no.5 I have examined whether there is a possibility or there has been a situation where the notion of multiple discrimination could have been applied. I have laid emphasis primarily on its implications on refugee women because their chances of finding a job are worse due to socio-cultural differences than those of native citizen women. In relation to work opportunities open for refugees, the concerned persons reported examples of jobs with working time exceeding 8 hours a day, which is hardly or not compatible with family life and obligations, or the necessity of turning to be 'forced' entrepreneurs because of lack of employment. Their vulnerability is also due to the absence of measures aimed at promoting equal opportunities; the uniform application of uniform regulations relevant

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<sup>7</sup> Each long-term injury is considered employment-based disability, which hampers a person in his/her advancement in his/her professional career. The Court of Justice of the European Union (CJEU) took obesity into account as disability under the Kolhot case, while in the Coleman case, reasonable accommodation denied at the workplace to a mother caring for her child with disability constituted discrimination. Long-term deterioration of health, bodily or mental injury forming the basis of the refugees' vulnerability can be adjusted into this legal practice that follows a wider-scope disability model in the social and human rights sense. Pursuant to Article 5 of Anti-Discrimination Framework Directive 2000/78/EC reasonable accommodation shall be provided during employment, failure to do so constitutes discrimination.

to everyone affects them as a special group negatively. “[...] we had a group consisting of women who wanted to become entrepreneurs, one of them wanted to launch an interior design company, another lady would have wanted to establish a manicure boutique and a Pakistani lady dressed beautiful hair-styles. But they could not cover the costs or buy the equipment and fittings for starting the enterprise.” (the president of an organisation consisting of and providing assistance for immigrants)

The phenomenon where a refugee who speaks Hungarian poorly or not at all, seeks contacts with the authorities and the employers and a third person accompanies them to function as a bridge to overcome the language barrier could also be classified in this category. As a collaborator of an NGO engaged in the integration of immigrants has indicated: the language used by the authorities is often hardly comprehensible even for Hungarian speaking people, and the right to use one’s native language does not cover the languages used by refugees, except for the asylum procedure. This vulnerability, the lack of independence, can violate human dignity Knowledge of the language is an obligation and a requirement on the part of the host society for integration, and the integration acquis of the European Union confirms this requirement. In times of economic prosperity, the lower number of those employed or unemployed due to lack of knowledge of the language can be regulated by the labour market system, but there is basically a need for a regulatory environment that would ensure equal opportunities for the refugees.

Indicators no. 8 and 9 measure the statutory obligations of recognising previous skills and qualifications, as well as the method of assessment of the skills. I have examined in this respect whether the way Act C of 2001 regulates this issue is justified in the case of refugees. The statutory regulation assigns the task of assessment of the skills in assisting those with lower qualifications to the institutions, and employers, even though all of the concerned persons emphasised its importance in finding a job. *“Recognition of the skills is very important, but other assistance must also be provided for launching an enterprise.”* (the president of an organisation consisting of and providing assistance for immigrants)

Indicator no. 12 examines with respect to counselling for job-seeking, whether refugees have access to state support or services, either through specialised staff or programmes tailored to their needs. Thanks to support provided under the EIF and AMIF, most of the NGOs provided support for the members of the target group in the framework of programmes. Several NGOs experienced anomalies in relation to such programmes, and they even signalled the occurrence of a situation raising concerns of negative discrimination but hard to prove. *“Have you experienced such a circumstance in the course of recognition of skills and abilities and fitting them to the Hungarian conditions that if it were not a refugee/migrant standing in front of them but an immigrant of a Hun-*

*garian ethnic group, would the procedure be different?" Let me answer by just mentioning that this phenomenon is present everywhere in Europe" (the president of an organisation consisting of and providing assistance for immigrants).*

In relation to the issue of becoming an entrepreneur, Indicator no. 13 examined whether the State-run organisations helped refugees by fulfilling the systems of criteria, or by providing them with targeted services for preparing a business plan, or with financial or logistical support. Though the Hungarian regulatory framework is neutral and becoming an entrepreneur can be considered a level playing field for refugees and Hungarian citizens due to the fact that they are granted nearly the same rights and burdened by nearly the same obligations, however, this is a form of support rarely occurring in practice. *"I don't know of a single case where the employment centre would have provided support. I asked one of my acquaintances who has already been granted citizenship why he does not turn to a bank for support for launching his enterprise, as the bank could grant him a loan. He answered that you know the reason well. Of course, I know there are some banks that hold workshops and an acquaintance of mine works for one of them. We talked about how good it would be if such workshops were held for migrants as well."* (A former asylum-seeker who works for an NGO dealing with migrants). *„The issue is how to launch a business enterprise, it is not that skills that are lacking but rather financial funds. We talk about social cooperatives, and I try to say to people that it is not all right that you work all day and night at a kebab stall and create wealth for other people but you yourself do not advance."* (the president of an organisation consisting of and providing assistance for immigrants).

The opinions of the experts and concerned persons underpin that there is a phenomenon of unequal treatment and discrimination that affects them on the part of employees of the authorities and employers, but they either rationalise it along with their own compliance and integration strategies or they do not speak about it. *"There are deficiencies in Hungary, but if I compare them to the conditions prevailing in my country, I am still more secure here"* (the president of an organisation consisting of immigrants). The issue of whether such unequal treatment attains the level of negative discrimination, can be determined by a state-run authority or court established for that purpose by full-scale analysis of the individual cases. However, it is not typical that the persons involved would resort to the authorities, because of their willingness to integrate.

## 4. Policy recommendations

Based on the tripartite analysis of the legislative framework it can be established that there is a normative space with deficiencies that have significant impacts on employment. Behind the high number of latent cases there are causes residing in the refugees' special attitude and willingness to integrate and also inherent in the legal system, such as the absence of equal opportunities, which don't necessarily have a huge impact separately, but in terms of their combined effect, they result in refugees not turning to state organizations to remedy their grievances and difficulties. Due to the deficiencies, the system of institutions for the application of the law does not fulfil the basic function of the scheme of the rule of law, i.e. the protection of the subjects at law. The fact that the concerned persons do not dare to resort to the authorities signifies a lack of trust in the system of institutions, however, trust is the cornerstone of institutional culture. The level of trust is not high or perfect in any society, but the low number of cases means that there are latent cases in high numbers.

- ▶ One way to increase trust vested in the system of institutions is to interact with smaller communities of refugees and migrants. As witnessed by the example of Portugal, the organisations fulfilling authority functions can address the members of the communities as a kind of umbrella organisation, working together either with collaborators with migrant or refugee background or under an institutionalised framework with NGOs. This can be solved by providing training to government offices, or by designating government offices with exclusive competence in settlements with high numbers of refugee or immigrant population.
- ▶ Based on the interviews, the employment of refugees and migrants is mainly characterised by low-wage jobs and overtime in the private sector. The distinction made in the Act on Asylum on the basis of citizenship can be explained by protectionism, which is less justified in respect to certain employment conditions and less supportive of the integration. There is no legal obstacle to creating regulations more favourable for them or even to abolishing the citizenship criterion.
- ▶ Instead of the neutral regulation enshrined in the Act on Asylum and the Act on Employment, equal opportunities could be promoted by a bigger cut in the employers' contributions or by the introduction of a social tax similar to that applied for the obligation to employ people with reduced capacity to work. That would not be contrary either to the provisions of the Geneva Convention or those of the *acquis communautaire*.

► A further recommendation is the enhancement and strengthening of the social consciousness and social responsibility of authorities, financial organisations supporting entrepreneurship as well as employers' organisations by providing training and assistance by the State and NGOs in creating targeted programmes with the involvement of the refugees concerned.

## 5. List of the legal acts cited and referred to

Title of the legal act	Abbreviation	The section(s) subject to analysis
Fundamental Law of Hungary (25 April 2011)	Fundamental Law	Article XII, Article XIV, Article XV, Article XVIII and Article XIX
Act CXXV of 2003 <sup>3</sup> on Equal Treatment and Promotion of Equal Opportunities	Ebkvt.	Article 7
Law Decree No. 15 of 1989 on the promulgation of the UN Convention adopted on 28 July 1951 relating to the Status of Refugees and the Protocol entered into on 31 January 1967 relating to the Status of Refugees	Geneva Convention	Article 17, 18, 19 and 24
Act LXXX of 2007 on Asylum	Met.	Article 10
Government Decree no. 301/2007. (XI. 9.) on the implementation of Act LXXX of 2007 on Asylum	Metvhr.	Chapter III
Act IV of 1991 on Job Assistance and Unemployment Benefits	Flt.	
Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted	Qualification Directive	

Regulation (EU) No. 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC	Regulation on AMIF	
Act C of 2001 on the recognition of foreign certificates and degrees	Kot.	
Act LXXVII of 2013 on Adult Education	Fkt.	Article 16
Act CXC of 2011 on national public education	Nkt.	Article 60
Act II of 2012	Mt.	
Act CXCIX of 2011 on Civil Servants of Public Services	Ktv.	
Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation	EU Anti-discrimination Framework Directive	
Communication from the Commission to the European Parliament, the Council, the European Commission, the European Economic and Social Committee and the Committee of the Regions: Action plan on Integration and Inclusion 2021–2027 COM(2020) 758 Action Plan 2021–2027		